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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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7 TRUSTEES OF THE BRICKLAYERS &
8 ALLIED CRAFTWORKERS LOCAL 13
9 DEFINED CONTRIBUTION PENSION TRUST
FOR SOUTHERN NEVADA, *et al.*,

10 Plaintiffs,

11 vs.

12 TILE CONCEPTS, INC, *et al.*,

13 Defendants.

Case No. 2:16-cv-01067-GMN-GWF

ORDER

14 This matter is before the Court on Defendants' failure to comply with the Court's Order
15 granting Plaintiff's Motion for Order to Show Cause (ECF No. 17), filed on March 3, 2017.

16 **BACKGROUND**

17 On July 13, 2016, Plaintiffs filed their Motion for Default Judgment. ECF No. 9. The
18 Court set the matter for hearing on November 16, 2016 and Defendants failed to be present. *See*
19 ECF No. 11, 12. On December 7, 2016, the undersigned issued a Report and Recommendation
20 (ECF No. 13) recommending that the Motion for Default Judgment be granted in favor of
21 Plaintiffs, including that Defendants be ordered to submit to an audit by an independent third party
22 of Plaintiffs' choosing within 14 days of the judgment. On January 25, 2017, the Court adopted the
23 Report and Recommendation in full. ECF No. 14. On January 26, 2017, the Clerk of the Court
24 issued judgment in favor of Plaintiffs. ECF No. 15. Defendants failed to submit to an audit.

25 On March 3, 2017, Plaintiffs filed their motion for order to show cause for Defendants'
26 failure to submit to an audit. On March 21, 2017, the Court granted Plaintiffs' motion for order to
27 show cause. The Court instructed Defendants to show cause, in writing, why sanctions should not
28 be imposed for their failure to comply with this Court's Order and set this matter for hearing on

1 April 19, 2017. *See* ECF No. 18. Plaintiffs served a copy of the Court's order on Defendants on
2 March 22, 2017. *See* ECF No. 19. Defendants failed to show cause in writing and failed to be
3 present for the April 19, 2017 hearing. *See* ECF No. 20. Additionally, Plaintiffs request an award
4 of attorney's fees and costs associated with bringing their motion. *See* ECF No. 17, pg. 4. Plaintiff
5 argues that Defendants acted in bad faith by refusing to obey the Court's orders and delaying the
6 audit. *Id.*

7 DISCUSSION

8 Courts have an inherent power to punish contempt of their authority and to coerce
9 compliance with orders. *United States v. Powers*, 629 F.2d 619, 624 (9th Cir. 1980). Civil
10 contempt is designed to compel a party's obedience to a specific and definite court order. *GoVideo,*
11 *Inc. v. Motion Picture Ass'n of Am.*, 10 F.3d 693, 695 (9th Cir. 1993). A party fails to act as
12 ordered by the court when it fails to take "all reasonable steps within its power to insure
13 compliance with the [court's] order." *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361,
14 1365 (9th Cir. 1987). The party alleging civil contempt must demonstrate by clear and convincing
15 evidence that the alleged contemnor failed to obey the court's order. *GoVideo*, 10 F.3d at 695.

16 A magistrate judge's civil contempt power is governed by 28 U.S.C. § 636(e), which states
17 that where:

18 the act constitutes a civil contempt, the magistrate judge shall forthwith certify the
19 facts to a district judge and may serve or cause to be served, upon any person whose
20 behavior is brought into question under this paragraph, an order requiring such
21 person to appear before a district judge upon a day certain to show cause why that
22 person should not be adjudged in contempt by reason of the facts so certified.

23 28 U.S.C. § 636(e)(6)(B)(iii) (2013).

24 The district judge then hears the evidence to determine whether the conduct warrants
25 punishment. The district judge may impose contempt sanctions in the same manner and to the same
26 extent as for a contempt committed before the district judge. *Aldridge v. Young*, 782 F. Supp.
27 1457, 1459 (D. Nev. 1991).

28 Pursuant to 28 U.S.C. § 636(e)(6), the undersigned magistrate judge hereby certifies the
following facts that may support a finding that Defendants are in civil contempt of court. On
January 25, 2017, the Court granted Plaintiffs' Motion for Default Judgment and ordered judgment

1 be entered in favor of Plaintiffs. The Court ordered Defendants to submit to an audit within 14
2 days of the date of judgment. *See* ECF No. 14. On January 26, 2017, the Clerk of the Court issued
3 judgment in favor of Plaintiffs. ECF No. 15. Defendants failed to submit to an audit. On March
4 21, 2017, the Court ordered Defendants to show cause in writing why sanctions should not be
5 imposed for their failure to comply with this Court's Order and set the matter for hearing. The
6 Court warned Defendants that failure to comply may result in the imposition of sanctions. *See* ECF
7 No. 18. Despite notice and an opportunity to be heard, Defendants again failed to comply with the
8 Court's orders. Defendants failed to respond in writing and did not appear for the April 19, 2017
9 hearing. Accordingly,

10 **IT IS HEREBY ORDERED** that Defendants shall appear before the District Judge at a
11 time to be determined to show cause why civil contempt sanctions, including but not limited to,
12 requiring Defendants to pay Plaintiffs' reasonable attorney's fees and costs in pursuing contempt,
13 should not be imposed.

14 **IT IS ORDERED** that Plaintiffs serve a copy of this Order upon Defendants by **May 2,**
15 **2017.**

16 DATED this 25th day of April, 2017.

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19 GEORGE FOLEY, JR.
20 United States Magistrate Judge
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